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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,406	12/18/2001	Alan J. McPherson	3464-033	5373
22440	7590	06/16/2005	EXAMINER	
GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 100160601			LEE, PING	
			ART UNIT	PAPER NUMBER
			2644	

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,406

Applicant(s)

MCPHERSON ET AL.

Examiner

Ping Lee

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-10 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 14 is/are rejected.
- 7) ☒ Claim(s) 15-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Gibson (US 5,812,688).

According to Webster's dictionary, test means evaluation, or observation.

Regarding claim 14, Gibson discloses a test signal generator adapted to generate a test signal for an audio program having a left and right program track, said

test signal generator comprising: memory means holding data (reads on icon) descriptive of a unique two dimensional image; and a converter means adapted to convert said digital data into a pseudo audio test signal having a left test track and a right test track (Fig. 6 shows the center; the icon to be displayed to the left or right of the center is determined by the left test track and the right test track; for example, the sax in Fig. 7b has a nonzero value for the right test track and zero value for the left test track).

4. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Nozaki (US 6,388,681).

According to Webster's dictionary, test means evaluation, or observation.

Regarding claim 1, Nozaki discloses a method of testing an audio program having a character parameter (although not clearly shown, every audio program inherently has its own unique characteristic) and including at least a first and a second audio channel (2-dimensional encoding of audio data), said method comprising: generating a pseudo audio test signal (image signal) having a first and a second channel (2-dimensinal image) that define a unique image, said unique image having spatial (Fig. 2 shows the image indicating different time) and geometric characteristics (the image to be displayed has a shape that is corresponding to the audio characteristic parameter) related to said characteristic parameter (for example, voice for the left image in Fig. 2 has a characteristic and voice for the right image has a different characteristic); attaching said pseudo audio test signal to said audio program to form a combined audio program ("object 1" as shown in Fig. 1); recording said composite audio program on an audio media (storage 20 in Fig. 3); reading (by 30 in Fig. 3) said composite audio

program from said audio media (20); detecting said pseudo audio test signal from said composite audio program (41); and displaying a reproduced image (as shown in Fig. 2) corresponding to said unique image, wherein said reproduced image has geometric and spatial characteristics (Fig. 2 shows images with indicating different time and shape) that are indicative of said characteristic parameter (as shown in Fig. 2, the image has to matched the audio signal).

Regarding claim 2, Nozaki shows the first and second channels defining orthogonal components (x and y) of the image.

Regarding claim 3, Nozaki shows the step of transmitting the combined program to another location (reads on the path from 20 to 30, or remove the memory from 20 to another computer).

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka et al (US 5,272,756) in view of Fields et al (US 5,274,708).

According to Webster's dictionary, test means evaluation, or observation.

Regarding claim 14, Tanaka et al (hereafter Tanaka) disclose a test signal generator adapted to generate a test signal for an audio program having a left and right program track (left channel and right channel as shown in Figs. 3 and 4), the test signal generator comprising: converter means (first extracting means and second extracting

means in Fig. 3) adapted to convert the audio data into a pseudo audio test signal having a left test track and right test track. Tanaka fails to show the memory means holding digital data descriptive of a unique two-dimensional image.

Tanaka teaches that the stereo audio signal describe a unique two-dimensional image (as shown in Figs. 11). However, Tanaka fails to explicitly specify the nature of the left and right audio signal. Since Tanaka teaches a general test signal generator, one skilled in the art would have expected that the general test signal generator as taught in Tanaka would work equally well for analog or digital audio input signals with necessary conversion means if needed. Fields et al (hereafter Fields) teaches the memory means holding digital data (digital audio data) (col. 2, lines 21-25) that is to be used for further processing. Thus, it would have been obvious to one of ordinary skill in the art to modify Tanaka in view of Fields by generating a pseudo audio test signal from a digital audio data in order to allow to user to confirm the correct status of the audio signal.

Allowable Subject Matter

7. Claims 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 4-11 are allowable over the prior art in the record.

Response to Arguments

9. Applicant's arguments filed 2/2/05 have been fully considered but they are not persuasive.


Applicant argued that claim 1 has been amended to incorporate the limitation in claim 4, therefore, claim 1 should be allowable.

As indicated in the rejection above, claim 1 still reads on Nozaki. The audio information for Fig. 2 has a characteristic parameter which is related to the spacial and geometric characteristics of the image.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ping Lee whose telephone number is 571-272-7522. The examiner can normally be reached on Monday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian C. Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ping Lee
Primary Examiner
Art Unit 2644

pwl